

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-1457V

KENNETH INGALSBE,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: January 31, 2024

Timothy James Lessman, Knutson & Casey Law Firm, Mankato, MN, for Petitioner.

Naseem Kourosh, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On October 6, 2022, Kenneth Ingalsbe filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that he suffered a Table injury - Guillain-Barré Syndrome (“GBS”) – as the result of an influenza (“flu”) vaccination administered on December 18, 2019. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 22, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for GBS. On January 26, 2024, Respondent filed a proffer on award of compensation (“Proffer”) indicating that Petitioner should be awarded \$250,000.00 for pain and suffering damages; \$11,421.52 past unreimbursable expenses; and \$4,721.03 to satisfy the Genesee County Medicaid lien. Proffer at 1-2. In the Proffer,

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, I award the following compensation:

1. A lump sum payment of \$261,421.52 (representing \$250,000.00 for pain and suffering and \$11,421.52 for past unreimbursable expenses) in the form of a check payable to Petitioner; and
2. A lump sum payment of \$4,721.03, representing compensation for satisfaction of the State of New York or County of Genesee Medicaid lien, in the form of a check payable jointly to Petitioner and

Genesee County Department of Social Services
Attn: Thomas F. Turturo, Esq.
Re: Kenneth Ingalsbe
DOB: 4/17/1953
DOI: December 30, 2019
5130 East Main Street, Suite 3
Batavia, New York 14020

This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Brian H. Corcoran
Brian H. Corcoran
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

KENNETH INGALSBE,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

No. 22-1457V (ECF)
Chief Special Master Corcoran

RESPONDENT'S PROFFER ON AWARD OF COMPENSATION

On October 6, 2022, Kenneth Ingalsbe (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (2018) (the “Vaccine Act”). Petitioner alleged that he suffered from Guillain Barré Syndrome following an influenza vaccine administered on December 18, 2019. ECF No. 1 (Petition) at 1.

On September 20, 2023, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Vaccine Act for a Table injury. ECF No. 21. On September 22, 2023, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner is entitled to compensation. ECF No. 23.

I. Items of Compensation

A. Pain and Suffering

Based upon the evidence of record, respondent proffers that petitioner should be awarded **\$250,000.00** in pain and suffering damages. Petitioner agrees.

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents that he incurred past unreimbursable expenses related to his vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of **\$11,421.52**. Petitioner agrees.

C. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy the Genesee County Medicaid lien in the amount of **\$4,721.03**, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of New York or County of Genesee may have against any individual as a result of any Medicaid payments the State of New York or County of Genesee has made to or on behalf of petitioner from the date of his eligibility for benefits through the date of judgment in this case as a result of his alleged vaccine-related injury suffered on or about December 30, 2019 under Title XIX of the Social Security Act.

The above amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

The parties recommend that compensation provided to petitioner should be made through two lump sum payments described below, and request that the Chief Special Master's decision and the Court's judgment award the following:¹

- A. A lump sum payment of **\$261,421.52**, in the form of a check payable to petitioner; and
- B. A lump sum payment of **\$4,721.03**, representing compensation for satisfaction of the State of New York or County of Genesee Medicaid lien, in the form of a check payable jointly to petitioner and

¹ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future pain and suffering, and future lost wages.

Genesee County Department of Social Services
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Petitioner agrees to endorse this check to the Genesee County Department of Social Services.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

TRACI R. PATTON
Assistant Director
Torts Branch, Civil Division

/s/ Naseem Kourosh
NASEEM KOUROSH
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146, Benjamin Franklin Station
Washington, D.C. 20044-0146
Telephone: (202) 305-1159
E-mail: Naseem.Kourosh@usdoj.gov

DATED: January 26, 2024